THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.19615 of 2005

Between:

The Abhyudaya Ritumitra Group, Rentapalla

... Petitioner

AND

The Branch Manager, Andhra Bank, Brugubanda Barnch,

Sattenapalli Mandal, Guntur District

...Respondent

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ORDER:

All the members of the petitioner association are agriculturists of Rentapalla village in Sattenapalli Mandal of Guntur District. They have been borrowing agricultural loans from Andhra Bank, Bhrugubanda Branch in Sattenapalli Mandal. At the time of granting loan during a crop season, they allege that the respondent Bank has been collecting crop insurance premium at the rate of 2.5% to 4.5%, which is illegal and arbitrary. It is their further case that crop insurance scheme was forced on them taking the Mandal as Unit and they were told that the insurance amount would be paid to them only in the event the entire crop in the Mandal is affected. It is alleged that the insurance premium is collected only from those agriculturists, who avail loan from the respondent Bank and not from others. Even though the crop of a particular individual farmer is lost, the respondent never came to rescue on the ground that the crop in the entire Mandal was not affected. It is further alleged that the respondent Bank after mortgaging the properties of the farmers granting meager amounts towards crop loans and if the farmers failed to repay the same the respondent can realize the said amount by selling the properties mortgaged. Therefore, the petitioner filed present writ petition. They seek a writ of Mandamus declaring the action of the respondent Bank in collecting the insurance premium without proper norms and guidelines as illegal and arbitrary.

It is not the case of the petitioners that they were compelled to avail the agricultural loans from the respondent Bank and they are also compelled to part with insurance premium amount. It is their case that they have been availing the loans from the Bank and as a condition of granting loans, they were asked to pay the crop insurance premium. When the loan is sanctioned by reason of a contract, it is always assumed that the contracted terms are settled and there is consensus ad idem between the parties. Indeed in the Court's opinion, insisting of crop insurance premium is in the interest of the farmers. Indeed a Division Bench of this Court considered the validity of the National Agricultural Insurance Scheme in **Andhra Pradesh Rythu Sangham v. Union of India**. After referring to the various orders and judgments of learned single Judges as well as a judgment of the Division Bench in Writ Appeal No.346 of 1992 dated 5.2.1996, the Division Bench observed and laid down as under.

The validity of the 'Scheme' was challenged before this Court, as well as before other High Courts. This Court in W.P. No.11882 of 1987 and batch, dated 23.8.1988 after considering the salient features of the Scheme and also the various aspects, its applicability to the farmers, delivered a detailed judgment upholding the validity of the Scheme. Following the aforementioned judgment, another learned Judge of this Court disposed of another Writ Petition, via., W.P. No.351 of 1987 dated 23.4.1991 on similar lines. Even a Division Bench of this Court in Writ Appeal No.346 of 1992 dated 5.2.1997 has confirmed the judgment of the learned Single Judge of this Court upholding the Crop Insurance Scheme. This Court in W.P. No.11882 of 1987 and batch dated 23.8.1988 has held as follows:-

"There is no denial of the fact that scheme is devised for the welfare of agriculturists, but then the scheme does not operate in favour of each individual agriculturist. In very nature of things, it is impossible to devise a scheme whereunder the loss suffered by any single agriculturist could be quantified and reimbursed. I have gone through the provisions relating to the scheme carefully. The concept has been succinctly stated in Para 9 of the counter filed by the General Insurance Corporation of India and I am in full agreement with the explanation provided. A broad principle of equity has been adopted in formulating the scheme. The agriculturists are dealt with in a group basis to provide compensation on the basis of average production in a defined area that is why it has become necessary to formulate an average yield in a defined area, which are scientifically designed to reluct the average of the area with a fair degree of accuracy. It is possible that the compensation paid on the above basis may fall short of the loss suffered by individual farmer. But, then by and large, when the average worked out on the basis provided in the scheme, it provides a reasonable compensation to the farmers as a group in the notified area. The averages are worked out by the method adopted by the Directorate of Economic and Statistics and unless it is established that the average worked out on the basis of information furnished is correct. It may be true that if a smaller defined area is notified taking into consideration the peculiar characteristics of each area, it may provide more authenticated results. While the State Government has to undertake the exercise of notifying smaller defined areas, the results eventually arrived at may accord in a larger measure with the loss suffered by an agriculturist. But then on that ground it is not possible to question the validity of the scheme or to come to a conclusion that the scheme is arbitrary."

The validity of the Scheme was also upheld by the High Court of Kerala by its order dated 8.9.1989 passed in O.P. No.11380 of 1985 and batch.

We are of the opinion that the Scheme benefits the farmer indemnifying him against the crop loss. The amount of loan will be recovered from the Insurance amount thereby a double purpose is served. The poor cultivator is indemnified against loss and the financial institutions, which are co-operative Banks, are indemnified against loss by the General Insurance Corporation. This is a social security measure meant for the benefit of rural population and benefits only those who take loans from the financial institutions. In other words, it is limited to the class of people who are getting subsidized loans from such institutions who themselves have got to be saved against ruin by general calamities affecting the area in question. Such a scheme cannot be said to be in any manner, unreasonable or arbitrary.

If the Bank is sanctioning subsidized loans to the farmers in accordance with the National Agricultural Insurance Scheme, 1995 all the agriculturists, who availed

crop loans, are required to pay the Crop Insurance Scheme amount. In case, the agriculturists avail crop loans other than subsidized loans, the terms and conditions of the contract govern the rights and obligations of parties to contract whether crop insurance premium has to be paid by lender or borrower. No direction can be granted to State Bank of Hyderabad not to collect Crop Insurance premium.

The writ petition with the above observations is disposed of. The respondent Bank shall take necessary action in accordance with the judgment of the Division Bench referred to herein above.

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(**V.V.S. RAO, J)**

March 23, 2006.

YS/pln